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/Joseph G. Swan/
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PATENT
Atty. Docket No. 30788-23

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

WILLIAM E. ELSWICK, ET AL.

Serial No.: 10/091,908

Filed: March 5, 2002

For: DISTRIBUTED STORAGE OF
AUDIO/VIDEO CONTENT

Group Art Unit: 2621

Examiner: Mishawn N. Dunn

Conf. No.: 9185

**PETITION FOR WITHDRAWAL FROM ISSUANCE
UNDER 37 CFR § 1.313(c)(2)**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Applicants hereby petition to withdraw the above-referenced patent application from
issuance as a patent, in order for the Patent Office to consider the Request for Continued

Examination (RCE), Information Disclosure Statement (IDS) and accompanying references that are being filed herewith. The fee required under 37 CFR § 1.17(h) also is being submitted herewith. This petition is made with reference to the following facts, circumstances and reasons.

A Notice of Allowance was issued in the present application on January 11, 2007. In response, Applicants submitted the issue fee (via EFS-Web) on April 10, 2007. Due to a change in the attorney of record, Applicants' attorney only received the Issue Notification in this case on Friday, May 4, 2007, although the Issue Notification apparently was mailed (to Applicants' prior attorney) on April 25, 2007. The Issue Notification indicates that the present application will issue as U.S. Patent 7,218,835 on *May 15, 2007*.

Sometime after the issue fee was submitted, Applicants' attorney began discussions with Applicants regarding a new claim set to be filed in connection with a continuation of the present application. In the course of discussing various combinations of features that might be claimed, Applicants mentioned the "BitTorrent" peer-to-peer file-sharing protocol and software to Applicants' attorneys.

Thereafter, Applicants' attorney conducted further investigation and analysis regarding BitTorrent and discovered that at least some version of BitTorrent's software apparently was publicly released prior to the filing of the present application. Accordingly, Applicants are submitting this Petition, a RCE and an IDS, in order to obtain the Examiner's consideration of certain descriptions of BitTorrent's software that were found on the Web. Applicants are making the instant filing immediately upon becoming aware of the foregoing information.

Applicants do not believe that any of the presently submitted information should affect the allowability of the pending claims. Nevertheless, this submission is being made out of an

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abundance of caution and a concern that the Examiner might possibly consider some or all of this information to be material to the patentability of any of the present claims.

If there are any fees due in connection with the filing of this paper that have not been accounted for in this paper or the accompanying papers, please charge the fees to our Deposit Account No. 502490. If an extension of time under 37 C.F.R. 1.136 is required for the filing of this paper and is not accounted for in this paper or the accompanying papers, such an extension is requested and the fee (or any underpayment thereof) should also be charged to our Deposit Account.

Dated: May 7, 2007

Respectfully submitted,
JOSEPH G. SWAN, P.C.

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